Consolidation Coal Company *and* United Mine Workers of America, AFL–CIO. Case 6–CA–23857

January 14, 1993

DECISION AND ORDER

BY CHAIRMAN STEPHENS AND MEMBERS DEVANEY AND OVIATT

On July 13, 1992, Administrative Law Judge John H. West issued the attached decision. The Respondent filed exceptions and a supporting brief, an answering brief, and a reply brief. The General Counsel filed a limited exception and a supporting brief, and an answering brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions[2] and to adopt the recommended Order.[3]

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Consolidation Coal Company, Rice's Landing, Pennsylvania, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] In adopting the judge's conclusion that the Respondent has not met its burden of proving that the information sought was confidential, we find it unnecessary to rely on his finding that telephone records are not private.

[3] In agreement with the judge, we conclude that a narrow cease-and-desist order is appropriate at this time.

Dalia Belinkoff, Esq., for the General Counsel.
David J. Laurent, Esq. (Polito & Smock), of Pittsburgh, Pennsylvania, for the Respondent.
Ed Yankovich, of Pittsburgh, Pennsylvania, for the Charging Party.

DECISION

STATEMENT OF THE CASE

JOHN H. WEST, Administrative Law Judge. On a charge filed August 28, 1991,[1] by United Mine Workers of America, AFL–CIO (Union), a complaint was issued on October 7 alleging that Consolidation Coal Company, Respondent, violated Section 8(a)(1) and (5) of the National Labor Relations Act (Act), by refusing to furnish the Union with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May, and June 1991, which information is assertedly necessary for, and relevant to, the Union's performance of its function as the exclusive collective-bargaining representative of the involved unit. Respondent denies violating the Act.

A hearing was held in Pittsburgh, Pennsylvania, on February 28, 1992. On the entire record in this case, including my observation of the demeanor of the witnesses and consideration of the briefs filed by General Counsel and the Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent, a Delaware corporation with an office and place of business in Pennsylvania, has been engaged in the mining and nonretail sale of coal. The complaint alleges, the Respondent admits, and I find that at all times material herein, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union has been a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICE

The Facts

For a number of years, Respondent has participated in collective-bargaining agreements with the Union covering Respondent's employees at the Dilworth Mine, with the most recent being the National Bituminous Coal Wage Agreement of 1988. (G.C. Exh. 2.) That agreement contains a grievance and arbitration procedure.

On July 25 Renee Smith telephoned Gregory Dixon, Respondent's eastern region human resources manager, and told him that Respondent's employee William Buehner had taken some tools and supplies from Respondent's Dilworth Mine and left them at her residence. She requested that the Respondent remove the tools from her residence. Also, she told Dixon that Buehner made a number of telephone calls to her in Florida.

Respondent's manager of industrial relations for the eastern region, Ronald Likar, then spent about 3 hours reviewing Respondent's telephone bills for the prior year to see whether any Florida telephone number appeared consistently on the bills.[2]

On August 2 Likar and another of Respondent's supervisors obtained an affidavit from Smith regarding the tools and she gave them the telephone numbers that Buehner had allegedly telephoned in Florida and Oklahoma from the mine.

[1] All dates are in 1991 unless stated otherwise.

[2] The phone bills do not indicate which of the approximately 15 phones at the mine was used. Rather, they indicate the date, time, the number dialed, whether the call was made on the Ducomm system, the length of the call, and the charge. The Ducomm system is part of the Dupont system which allows telephoning throughout the United States on a discount basis. The telephones are used primarily by management, which includes those who work at the mine and those who are visiting.

Likar and a supervisor of human resources, Tom Hudson, then reviewed the telephone records again for about 45 minutes and Hudson telephoned the numbers to make sure that they were Smith's brother's in Florida and Buehner's son's roommate in Oklahoma. Likar testified that Respondent's need to verify the accuracy of Smith's allegations outweighed the privacy rights of the people who were telephoned.

By letter dated August 5, Buehner was advised by Respondent that he was suspended with intent to discharge for taking tools, etc. from mine property and for making numerous long distance telephone calls ''where you spent substantial periods of time away from your job.'' (G.C. Exh. 10.)

On August 7, Buehner and the Union and Respondent's representatives met for what is termed a 24/48-hour meeting.[3] Likar provided Yankovich with a one-page document which listed Buehner's telephone calls. (G.C. Exh. 3.) Buehner admitted that he made the telephone calls. When Likar showed the bills for the 3 months to Yankovich to demonstrate the basis for the one-page listing, Yankovich told Likar that he, Yankovich, wanted copies of the original bills. Yankovich testified that he stated that the Union needed to see the bills in order to verify the calls and to check whether other employees had been making similar calls from the mine.[4] Likar testified that Yankovich only said that he had a right to the bills and he, Likar, refused indicating that the information was confidential in that management used the phones and management did not want the Union to know who management was telephoning. After a recess, Likar gave the Union either some (the approximately 14 pages containing the Buehner calls) or all of the involved bills, depending on whether the testimony of Yankovich and Whoorley is credited.[5] Also there is a conflict as to how much time Likar gave the Union representatives to review the bills. Likar testified that he told Yankovich that he could take as much time as he wanted. And Hudson testified that when Likar handed Yankovich what was received herein as Respondent's Exhibit 1, he, Likar, did not impose any time limit on Yankovich's opportunity to review the document. On the other hand, Whoorley testified that he was given 5 minutes to look at the approximately 14 pages of bills and that he copied two telephone numbers. Likar testified that Whoorley looked at all of the bills (R. Exh. 1) for 15 minutes and that he copied 10 or 12 numbers. While the Respondent and the Union agree that the Union offered to pay for the cost of copying the records, Likar and Hudson do not agree with Yankovich and Whoorley that the Union offered to sign a confidentiality agreement protecting whatever the Respondent deemed necessary. Yankovich testified that after this meeting he spoke with Likar in the hall telling him that the Union needed the records to substantiate regarding Buehner and also to prove ''that there's other things in here''; and that he again offered to enter into a confidentiality agreement and pay costs. Likar testified that during this conversation Yankovich said that he was going to subpoena the bills; and that Yankovich did not mention a confidentiality agreement.

By letter to Likar dated August 8 (G.C. Exh. 4) Yankovich, as pertinent, indicated as follows:

> As you were so advised at the 24/48 hour meeting on August 7th, 1991, concerning the [d]ischarge of William P. Buehner, it is the Union's position that the verbally requested, complete list of telephone bills for the Dilworth mine for the months of April, May and June, 1991, are of extreme importance to the Union to prepare for the defense of your . . . charges against Mr. Buehner.
>
> I certainly hope that you will graciously honor this request, taking into consideration, I need time to review these documents at least forty-eight (48) hours prior to the hearing. If the cost of reproduction is a factor in this request, the Union will certainly be willing to reimburse you this cost at a reasonably fair market value.

On August 9 the Union served a subpoena it obtained from an arbitrator (G.C. Exh. 9) on the Company requiring that it provide the information sought in the Union's above-described August 8 letter to Likar.

Yankovich testified that he spoke with Likar by telephone on August 12 telling him that the Union needed the records to verify that Buehner ''had made those calls at a certain time and . . . there were other people who made calls'' and that after this conversation Likar faxed a letter to him.[7] Likar denied that he spoke with Yankovich on August 12.[8]

By letter to Yankovich dated August 12, (G.C. Exh. 5) Likar indicated as follows:

> You have requested information relating to telephone bills. Please note that I have already given you *much* of this information to review at the 24/48 hour meeting on August 7, 1991. You looked at it and gave it back to me. You did not provide any reasons why any further review of this material would be necessary or did you indicate how such further review would relate to the instant case.
>
> If you would let me know why it is necessary for you to review this information again, I could make it

[3] The meeting gets its name from the fact that the parties are required by the involved collective-bargaining agreement to meet between 24 and 48 hours after the suspension unless the period is extended by mutual agreement of the parties. The union representatives included Ed Yankovich, who is the president of the Union's district 4; James Pocratsky, who is the chairman of the mine committee; Marlon Whoorley, who is a mine committeeman; and Mike Dulick, who is vice president of the local. The Respondent's representatives included Likar, Mine Superintendent Louis Barletta, and Hudson.

[4] Whoorley testified herein that he could not recall Yankovich giving a reason other than that the Union needed the complete phone bills to give Buehner a complete defense.

[5] Likar testified that all the bills (R. Exh. 1) were given to the Union; and that there were two recesses and after the first his offer of one page of the bills which has two of Buehner's telephone calls on it was rejected by Yankovich who stated that he needed copies. Hudson, answering a leading question, corroborated Likar regarding the fact that R. Exh. 1 was tendered to Yankovich.

[7] No mention of this alleged conversation appears in Yankovich's affidavit to the Board.

[8] It is noted that immediately after testifying about his August 12 letter, described infra, Likar gave the following testimony:

> Q. Did you speak to Mr. Yankovich by phone that day at any point.
>
> A. Yes, he called me.
>
> Q. I'm talking about the 12th, the day you sent this letter.
>
> A. No, I didn't hear from him on the 12th. I heard from him on the 13th, he called me.

> available to you prior to or during the [arbitration] hearing on August 14, 1991. [Emphasis added.]

Likar testified that he spoke with Yankovich by telephone on August 13 after Yankovich received the above-described faxed letter; that Yankovich told him that he had a right to the documents; and that Yankovich did not offer a confidentiality agreement at this point.

On August 14 the arbitration hearing was held regarding Buehner's discharge. At the beginning of the hearing Yankovich requested the telephone records indicating that he wanted them to substantiate that Buehner had spent a certain amount of time on the telephone and to show that other employees had made telephone calls at the Dilworth Mine during working hours. Likar offered to stipulate that other employees had made telephone calls from the mine but he pointed out that the issue was not whether the calls were made but whether the employees had permission to make the calls. When they testified herein, Yankovich and Likar disagreed as to whether a confidentiality agreement was mentioned during the arbitration hearing. Likar offered, at the arbitration hearing, to give the Union either a copy of the bills with the telephone numbers, except those telephoned by Buehner, blackened out (R. Exh. 2) or a full copy to review in the hearing room. The parties disagree with respect to how much time the Union would have had to review the documents, with Yankovich testifying that the Union was given ''an hour or two, whatever it takes, and then we could resume the hearing''[9] and Likar testifying that the Union was told that it was for as long as was necessary. The Union indicated that it was not enough time and it declined the arbitrator's offer to recess the hearing so that the Union could seek to enforce the subpoena through the court. Likar testified that the arbitrator then concluded that the documents were confidential and that the Company had gone further than was necessary for it to go. The arbitrator upheld Buehner's discharge.

By letter to Likar dated September 10 (G.C. Exh. 6) Yankovich renewed his request for the documents, indicating that the Union would be willing to reimburse the Company for reasonable reproduction costs.

By letter to Yankovich dated September 18 (G.C. Exh. 7) Likar denied the request and summarized his, Likar's, understanding of what had occurred.

[9] General Counsel then elicited the following testimony from Yankovich:

> Q. So Mr. Likar offered the Union to look at the records for approximately an hour or two?
>
> A. At the most, an hour or two. He said we could take a break and let the Union look at the records for an hour or two, and then we would resume the hearing. That was the offer that was made.
>
> Q. Mr. Yankovich, you testified earlier the Company said they would give you an hour or two, or as much time as you needed, to review the documents.
>
> A. Yes.

And subsequently during cross-examination Yankovich testified that the company representatives said that ''they would make available the records for approximately an hour or two at the most.'' Finally, on direct Yankovich testified that he believed that he was only offered an hour or two.

Contentions

On brief, General Counsel contends that it is well established that as part of its duty to bargain in good faith an employer must comply with a union's request for information that will assist the union in fulfilling its responsibilities as the employees' statutory representative; that disclosure of information necessary to evaluate grievances filed or contemplated allows a union to evaluate nonmeritorious claims and facilitates the arbitral process; that the Union's request for the telephone bills was based on its knowledge that other hourly employees were using the telephone in the same manner; that Respondent has not adequately shown a legitimate confidently concern beyond its mere assertion of same; that the Union gave repeated assurances of protection of these concerns; that the fact that the bills are the necessary source of information was made clear by Respondent's witnesses who testified that they used the bills in their own investigation of the situation; that Respondent's offer of at most 1 or 2 hours prior to the arbitration hearing, was insufficient time to allow the Union to study and evaluate the documents; and that a broad remedial order is warranted herein since Respondent is both a repeat offender and an egregious violator of the Act in the same context as the instant case as well as in other unfair labor practice circumstances.

Respondent, on brief, argues that General Counsel failed to establish the relevance of and the Union's need for the copies of the telephone records; that it was not until the arbitration hearing that Yankovich stated that he wanted the records to show that other employees had made similar calls; that verification that Buehner made the telephone calls was not an issue since at the 24/48 hour meeting Buehner admitted that he made the calls; that regarding whether other employees had made long distance telephone calls from the mine during working hours, the circumstances under which such calls may have been made could be proven only through testimony and Yankovich appreciated this fact; that General Counsel failed to prove that only providing copies of the documents would have satisfied Respondent's obligation under the Act; that the Board has recognized that an employer lawfully can limit a union's access to confidential information to an on-site review of the records so long as that provides reasonable access under the circumstances; that Yankovich was unable to specify a use for the documents which would have required more than 2 hours of review; that at the arbitration hearing the Respondent offered to make the original records available for as long as the Union needed to review them; that Respondent's undisputed confidentiality concerns clearly outweighed the Union's amorphous interest in obtaining copies of the telephone records; and that even if it did violate the Act, a broad remedy is not warranted under the facts of this case.

Analysis

In my opinion, General Counsel has demonstrated that Respondent violated the Act as alleged.

The Board in *Pennsylvania Power Co.*, 301 NLRB 1104 (1991), concluded as follows:

> An employer has a statutory obligation to supply information that is potentially relevant and will be of use to the union in fulfilling its responsibilities as the em-

ployees' exclusive bargaining representative. *NLRB v. Acme Industrial Co*., 385 U.S. 432, 435–436 (1967). Information concerning wage rates, job descriptions, and other information pertaining to employees within the bargaining unit is presumptively relevant, *Curtis-Wright Corp*. 145 NLRB 152 (1963), enfd 347 F.2d 61 (3d Cir. 1965), whereas the relevancy of requested information pertaining to employees outside the bargaining unit must be demonstrated by the union. *Adams Insulation Co*., 219 NLRB 211 (1975); *Curtis-Wright Corp., supra.* The standard for relevancy in either situation is the same: a liberal ''discovery-type standard.'' *Acme Industrial*, supra at 437 and fn. 6. Thus, the information need not be dispositive of the issue between the parties but must merely have some bearing on it.

In general, the Board and the courts have held that information that aids the arbitral process is relevant and should be provided. *Acme Industrial, supra*, at 438. In this regard, the relevancy of the information and the concomitant duty to furnish it are not affected by whether the request for information is made at the grievance stage or after the parties have agreed to arbitration. *Fawcett Printing Corp*., 201 NLRB 964, 972 (1973); *Chesapeake & Potomac Telephone Co*., 259 NLRB 225, 227 (1981). This is so because the goal of the process of exchanging information is to encourage resolution of disputes, short of arbitration hearings, briefs, and decision so that the arbitration system is not ''woefully overburdened.'' *Acme Industrial*, supra, at 438.

Moreover, information of ''probable relevance'' is not rendered irrelevant by an employer's claims that it will neither raise a certain defense nor make certain factual contentions, because ''a union has the right and the responsibility to frame the issues and advance whatever contentions it believes may lead to the successful resolution of a grievance.'' *Conrock Co*., 263 NLRB 1293, 1294 (1982). Further, because the Board, in passing on an information request, is not concerned with the merits of the grievance, it is also not ''willing to speculate regarding what defense or defenses an employer will raise in an arbitration proceeding.'' *Id.* at 1294.

A union's interest in information, however, will not always predominate over other legitimate interests. As stated by the Supreme Court in *Detroit Edison Co. v. NLRB*, 440 U.S. 301 (1979), ''a union's bare assertion that it needs information to process a grievance does not automatically oblige the employer to supply all the information in the manner requested.'' *Id.* at 314. . . .

It is clear from the foregoing that in dealing with union requests for relevant, but assertedly confidential information, the Board is required to balance a union's need for the information against any ''legitimate and substantial'' confidentiality interests established by the employer. The appropriate accommodation necessarily depends on the particular circumstances of each case. The party asserting confidentiality has the burden of proof. Legitimate and substantial confidentiality and privacy claims will be upheld, but blanket claims of confidentiality will not. Further, a party refusing to supply information on confidentiality grounds has a duty to seek an accommodation. Thus, when a union is entitled to information concerning which an employer can legitimately claim a partial confidentiality interest, the employer must bargain toward an accommodation between the union's information needs and the employer's justified interests. [Footnotes omitted.]

From the outset, the Union sought a copy of all of the involved bills. Contrary to the assertions of Respondent's witnesses, Respondent did not show *all* of the involved bills to the Union on August 7.[10] If it had, there would have been no reason for Likar to indicate in his August 12 letter ''I have already given you *much* of this information to review at the 24/48 hour meeting on August 7.'' The Union's witnesses are credited on this point. While the Union may not have explicitly stated on August 7 why it wanted the telephone numbers other than those called by Buehner, its request was clearly specific enough to apprise the Respondent of what information was sought. Respondent had reviewed the very same bills and had them in the meeting room albeit they were not, at that time, given to the Union.

But Respondent took the position that the information was confidential in that management used the phones and management did not want the Union to know who management was telephoning. As noted above, the party asserting confidentiality has the burden of proof and blanket claims of confidentiality will not be upheld. It does not matter, in my opinion, that the Union did not offer to sign a confidentiality agreement.[11] As noted above, the party refusing to supply the information on confidentiality grounds has the duty to seek an accommodation. There is nothing in the record indicating that on August 7 Respondent requested the Union to sign a confidentiality agreement and the Union refused. On August 7 Respondent did not seek or offer an accommodation. It refused to comply with the Union's request stating that the material sought is confidential. Is it? As noted above, blanket claims of confidentiality will not be upheld. A list a of employees' unlisted telephone numbers is one thing. A telephone bill is quite something else. Respondent cannot successfully assert a privacy claim regarding the latter. Telephone records are not private. They are the property of the phone company. Cf. *Reporters Com v. American Telephone & Telegraph*, 593 F.2d 1030 (D.C. Cir. 1978), wherein the court stated at 1045 as follows:

> A telephone subscriber is fully aware when he places a long distance call that the telephone company will

[10] Since Respondent did not give the Union access to all of the involved bills at that time, it is not necessary to resolve the conflict in testimony regarding how long the Union had to review the bills.

[11] While the Union may have belatedly wished that it had offered to sign a confidentiality agreement, with the exception of the testimony of two of the Union's witnesses, all of the evidence seemingly points in the other direction, namely, the absence of any mention of such an agreement in Yankovich's affidavit and in the Union's letters of August 8 and September 10 while all mention the Union's willingness to pay for the cost of copying. Also there is not mention of such an agreement in the arbitrator's decision (R. Exh. 4) even though he mentioned the matter of confidentiality. And finally, undoubtedly there was some kind of a record made at the arbitration hearing. If it contained any mention of a confidentiality agreement, undoubtedly General Counsel would have attempted to have such mention noted in this record.

> make a record of the call . . . [and] that the record is the company's property . . . .

While that case dealt with a criminal investigation and with the obtaining of the records from the telephone company, as pointed out by the court therein, in 1974 AT&T instituted a policy under which it, as here pertinent, would only release toll billing records[12] pursuant to a subpoena, valid on its face, issued under the authority of a statute, court, or legislative body.[13] In other words, the Union could have subpoenaed the records from the telephone company and if Respondent had opposed such action on the grounds of confidentiality, its argument would have been deemed to be without merit. Respondent's Exhibit 1 is a copy of an AT&T bill which was forwarded by AT&T to the Respondent. It would appear that if the telephone record is not considered confidential while it is in the possession of AT&T, then a copy of it would not be considered confidential when it is in the possession of the subscriber. So, in addition to the fact that Respondent advanced a blanket claim which cannot be upheld, Respondent's privacy or confidentiality claim has no merit.

In *Detroit Edison Co*., supra, the employer administered the tests specifically promising that the test scores would remain confidential. Here, Respondent did not specifically promise each person who used the involved telephones that the number they were calling would remain confidential. Indeed, it could not practically make such a promise. And it did not and could not promise those employees who have unlisted telephone numbers that if such telephone numbers were used, the records of such usage would be confidential. In the circumstances existing here, there should be no reasonable expectation of privacy regarding telephone records.

Obviously the Union wanted all of the involved records before the arbitration hearing so that it would have had enough time to review them and determine what approach it would take in defending Buehner regarding this aspect of the charge. The records are relevant. The Respondent did not offer the Union access to the records sought for a sufficient time and sufficiently in advance of the arbitration hearing.[14] Its belated offer, made at the arbitration hearing, did not change the situation.

In my opinion the Union's need for the involved records clearly outweigh the reason given by the Respondent for refusing to supply them. Respondent violated the Act as alleged.

[12] Telephone records were described by the court as containing the number called, the date, the time, and the duration of the call. The court went on to indicate that such records are maintained by the telephone company for 6 months.

[13] The policy statement also required that subscribers whose toll-billing records have been subpoenaed in civil suits be notified immediately on receipt of the subpoena.

[14] Likar's August 12 letter, as here pertinent, stated ''If you would let me know why it is necessary for you to review this information again, I could make it available to you prior to or during the hearing on August 14, 1991.'' In other words, Likar was qualifying his offer of access. Moreover, since the only information the Union was given on August 7 was the 14 or so pages with Buehner's telephone calls, the ''again'' would mean that the Respondent was only offering access to those same 14 or so pages.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent violated Section 8(a)(1) and (5) of the Act when it refused to furnish the Union with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May, and June 1991.

THE REMEDY

Having found that Respondent has engaged in this unfair labor practice in violation of the Act, it shall be recommended that Respondent cease and desist therefrom and take certain affirmative action.

Respondent will be ordered to furnish the Union with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May, and June 1991.

While General Counsel seeks a broad remedial order, while Respondent has been found to have violated the Act in a number of recent cases, and albeit Administrative Law Judges in at least three cases have recommended broad cease and desist language, the Board has concluded that the narrow cease-and-desist language is appropriate. Accordingly, the narrow language will be utilized herein.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[15]

ORDER

The Respondent, Consolidation Coal Company, Rice's Landing, Pennsylvania, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to furnish the United Mine Workers of America, AFL–CIO with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May and June 1991.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Supply the United Mine Workers of America, AFL–CIO with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May, and June 1991.

(b) Post at its facility in Rice's Landing, Pennsylvania, (and at the Dilworth Mine if it is not at this location) copies of the attached notice marked ''Appendix.''[16] Copies of the notice, on form provided by the Regional Director for Region 6, after being signed by Respondent's authorized representative, shall be posted by the Respondent immediately

[15] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[16] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''

on receipt and be maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director within 20 days from the date of this Order what steps the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, and has ordered us to post this notice.

WE WILL NOT refuse to furnish the United Mine Workers of America, AFL–CIO with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May, and June 1991.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them in Section 7 of the Act.

WE WILL supply the United Mine Workers of America, AFL–CIO with a complete list of telephone bills for Respondent's Dilworth Mine for the months of April, May, and June 1991.

CONSOLIDATION COAL COMPANY